

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

IN RE NATIONAL PRESCRIPTION  
OPIATE LITIGATION

MDL No. 2804

This document relates to:  
*Cabell County Commission v.  
AmerisourceBergen Drug Corporation, et al.*  
Case No. 1:17-op-45053-DAP (S.D. W. Va.)

Case No. 17-md-2804

Judge Dan Aaron Polster

**REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF MANUFACTURER  
DEFENDANTS' JOINT MOTION TO DISMISS PLAINTIFF'S SECOND AMENDED  
COMPLAINT**

PLEASE TAKE NOTICE that, pursuant to Federal Rule of Evidence 201, the Manufacturer Defendants hereby request that the Court take judicial notice of the following documents in support of Manufacturer Defendants' Joint Motion to Dismiss Plaintiff's Second Amended Complaint ("2AC"). All exhibit references correspond to the exhibits attached to the Declaration of Charles C. Lifland, filed contemporaneously in support of the above-referenced motion.

1. **Exhibit A:** The complaint in *State of West Virginia v. Amerisourcebergen, et al.*, Case No. 12-C-141 (W. Va. Cir. Ct. Boone Cnty. June 26, 2012);
2. **Exhibit B:** The amended complaint in *State of West Virginia v. McKesson Co.*, Case No. 16-C-1 (W. Va. Cir. Ct. Boone Cnty. Jan. 21, 2016); and
3. **Exhibit C:** A copy of the Cabell County Commission Resolution, as filed by Cabell County on March 9, 2017 as Exhibit 1 to its Original Complaint in the instant action. *See* Dkt. No. 1-1.

The State of West Virginia complaints (Exhibits A-B) are subject to judicial notice as they are filings in a court of record. *See Lyons v. Stovall*, 188 F.3d 327, 332 n.3 (6th Cir. 1999)

(“[F]ederal courts may take judicial notice of proceedings in other courts of record.”” (citation omitted)); *In re Huffy Corp. Sec. Litig.*, 577 F. Supp. 2d 968, 981-82 (S.D. Ohio 2008) (taking judicial notice of allegations made in complaint in another proceeding).

The Court may also take judicial notice of the Cabell County Resolution (Exhibit C), as it is a “matter of public record and there is no dispute between the Parties about its authenticity.” *Ramirez v. Medtronic, Inc.*, 961 F. Supp. 2d 977, 984 (D. Ariz. 2013); *see also Davis v. Nice*, 2012 WL 3961236, at \*5 (N.D. Ohio Sept. 10, 2012) (taking judicial notice of a municipal ordinance); *Lewis v. Livingston Cnty. Ctr. for Nursing & Rehab.*, 30 F. Supp. 3d 196, 203 (W.D.N.Y. 2014) (taking judicial notice of a county resolution). Alternatively, the Cabell County Resolution is incorporated by reference in the 2AC. *See* 2AC ¶¶ 31, 891; *see also Composite Techs., L.L.C. v. Inoplast Composites SA de CV*, 925 F. Supp. 2d 868, 873 (S.D. Ohio 2013) (finding that documents referenced in complaint were incorporated by reference).

**WHEREFORE**, the Manufacturer Defendants respectfully request that the Court take judicial notice of the abovementioned exhibits.

Dated: June 8, 2018

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on June 8, 2018, a copy of the foregoing **Request for Judicial Notice** was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

Dated: June 8, 2018

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